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MOSER, PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			SHEPARD, JUSTIN E	
		ART UNIT		PAPER NUMBER
		2617		
DATE MAILED: 11/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/973,083	HENDRICKS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Justin E. Shepard	2617	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-60 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-60 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/15/02; 3/18/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____                                     |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-25, 27-29, 31, 34, 35, 37-47, 49, and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by McKenna.

Referring to claim 20, McKenna discloses a method for local targeting of advertisements comprising (column 10, lines 47-52): defining one or more target categories; segmenting one or more of the one or more target categories into groups (column 10, lines 67-68); creating group assignment rules for one or more of the one or more target categories; and providing the group assignment rules to one or more local terminals (column 11, lines 17-19), wherein the group assignment rules define targeted advertisements to be displayed at the one or more local terminals (column 10, lines 47-52).

Referring to claim 21, McKenna discloses a method of claim 20, further comprising periodically sending the group assignment rules to the one or more local terminals (column 10, lines 52-56; Note: having a separate cut-ins for each day is interpreted as providing a periodic sending of the data, as the data would need to be refreshed each day).

Referring to claim 22, McKenna discloses a method of claim 20, further comprising inputting local viewer information into a memory in a local terminal (column 19, lines 20-22 and 33-35).

Referring to claim 23, McKenna discloses a method of claim 22, wherein the step of inputting local viewer information comprises: automatically entering the local viewer information (column 7, lines 18-19); and receiving manual input of the local viewer information (column 7, lines 28-38).

Referring to claim 24, McKenna discloses a method of claim 23. further comprising providing prompts to prompt a viewer to make the manual input (column 7, lines 28-38).

Referring to claim 25, McKenna discloses a method of claim 24, further comprising providing an on-screen menu at the local terminal, the on-screen menu comprising a prompt (column 7, lines 28-38).

Referring to claim 27, McKenna discloses a method of claim 22, wherein the step of inputting local viewer information comprise receiving information from sources external to the local terminal (column 7, line 31).

Referring to claim 28, McKenna discloses a method of claim 22, wherein the local viewer information comprises one or more of: local terminal identification information (column 11, lines 1-4); local terminal type; date of system set-up; household income; subscriber data, including name, sex, age, place of birth, education, and profession; TV program preferences; demographic information; paid advertisements viewed data, including number of times viewed information; past product ordered,

including time, date, and method of order information; past billing information; past TV programs watched data, including time and date information; past pay-per-view programs ordered data, including time and date information; mood indicators entered at time of local terminal turn on-. form-based questionnaire results from subscriber group assignments per subscriber for each target category; past advertisements delivered to subscriber, date of delivery, method of delivery; Zip+4 information; household location or address; number of subscribers in household; and responses to prompts from past group assignment rules interactions.

Referring to claim 29, McKenna discloses a method of claim 20, further comprising: receiving a program channel at the local terminal, the program channel carrying a program and one or more advertisement spots (column 11, lines 21-26), and one or more primary targeted advertisements for display in the one or more advertisement spots (column 10, lines 50-53); receiving one or more feeder channels, each of the one or more feeder channels carrying alternative targeted advertisements (column 10, lines 47-49); storing a switching plan at the local terminal (column 10, lines 59-60); and at a local terminal, selecting one of the program channel and one of the one or more feeder channels to display an advertisement at the local terminal, the selection based on the group assignment rules and the switching plan (column 11, lines 21-26).

Referring to claim 31, McKenna discloses a method of claim 22, further comprising creating the group assignment rules based on the local viewer information (column 4, lines 1-3).

2. Referring to claim 34, McKenna discloses a method of claim 20, wherein the local terminal is a set top terminal in a television program delivery system (figure 2).

Referring to claim 35, McKenna discloses a method of claim 20, wherein the group assignment rules are provided using a television program delivery system (column 11, lines 11-13).

Referring to claim 37, McKenna discloses a method of claim 20, further comprising assigning the local terminal to a targeting group based on the group assignment rules (column 10, lines 67-68).

Referring to claim 38, McKenna discloses a method of claim 20, wherein the group assignment rules are received from an operations center (column 11, lines 11-13).

Referring to claim 39, McKenna discloses a method of claim 20, wherein the group assignment rules are received from a cable television headend (column 11, lines 11-13).

Referring to claim 40, McKenna discloses a local terminal for targeting advertisements, comprising (column 10, lines 47-52): means for switching between alternative targeted advertisements at the local terminal (column 11, lines 21-26); means, coupled to the switching means, for collecting information at the local terminal (column 7, lines 18-19); means, coupled to the switching element and the information collecting means, for processing the collected information and for controlling the switching means (column 10, lines 53-60); and means, coupled to the switching means,

the information collection means, and the processing means, for storing the collected information (column 7, lines 18-19).

Claim 41 is rejected on the same grounds as claim 28.

Referring to claim 42, McKenna discloses a local terminal of claim 40, wherein the processing means comprises means for assigning local terminals to target groups (column 10, lines 67-68).

Referring to claim 43, McKenna discloses a local terminal of claim 40, further comprising means for receiving viewer information for input into the storing means (column 7, lines 28-38).

Referring to claim 44, McKenna discloses a local terminal of claim 43, wherein the viewer information comprises automatically collected information (column 7, lines 18-19) and manually entered information (column 7, lines 28-38).

Referring to claim 45, McKenna discloses a local terminal of claim 44, wherein the collecting means, comprises: means for automatic data collection, wherein the automatic data collection means includes an means for recording data related to the occurrence of specific events (column 7, lines 18-19); and means for manual data collection, wherein the manual data collection means includes an means for prompting information input, wherein the prompting means generates one or more prompts based on the group assignment rules and the local viewer information (column 7, lines 28-38).

3. Referring to claim 46, McKenna discloses a local terminal of claim 45, wherein the events include one or more of programs watched (column 7, lines 18-19), feeder

channels viewed, pay-per-view events purchased, interactive advertisements selected, click stream data, and Internet web sites visited.

Referring to claim 47, McKenna discloses a local terminal of claim 45, wherein the prompt is in a form of an on-screen menu (column 7, lines 28-38).

Referring to claim 49, McKenna discloses a local terminal of claim 40, further comprising means for receiving viewer-related information from an external source, whereby data external to the local terminal is received for storage in the storing means (column 11, lines 11-13).

Referring to claim 50, McKenna discloses a local terminal of claim 40, wherein the switching means comprises means for selecting a feeder channel, and wherein a feeder channel is selected to display a targeted advertisement based on a group assignment of the local terminal (column 10, lines 47-49).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13, 14, 16, 19, 26, 36, 48, 52, 53, 55-57, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna.

Referring to claim 1, McKenna discloses a local terminal for targeting advertisements, comprising in one system: a local terminal switching engine (column

10, lines 47-52); a local terminal data collection engine coupled to the switching engine (column 7, lines 18-19); a group assignment rules processor engine coupled to the switching element and the data collection engine (column 11, lines 11-13); and a memory coupled to the switching engine, the data collection engine, and the rules processor engine (figure 5, part 39).

McKenna does not disclose a system where the actions are performed by separate units.

At the time of the invention it would have been obvious for one of ordinary skill in the art to split the system disclosed by McKenna into separate parts. The motivation would have been to use off the shelf parts in the device instead of a larger ASIC, which would make the device cheaper to manufacture.

Claim 2 is rejected on the same grounds as claim 28.

Referring to claim 3, McKenna discloses a local terminal of claim 1, wherein the rules processor engine comprises one or more group assignment rules (column 11, lines 1-4 and 11-13).

Referring to claim 4, McKenna discloses a local terminal of claim 1, further comprising an interface for inputting local viewer information into the memory (column 7, lines 18-19).

Referring to claim 5, McKenna discloses a local terminal of claim 4, wherein the local viewer information comprises automatically collected information (column 7, lines 18-19) and manually entered information (column 7, lines 28-38).

Referring to claim 6, McKenna discloses a local terminal of claim 5, wherein the data collection engine comprises: an automatic data collection module, wherein the automatic data collection module includes an event monitor that records data related to the occurrence of specific events (column 7, lines 18-19); and a manual data collection module, wherein the manual data collection module includes an on-screen prompt module that generates one or more prompts based on the group assignment rules and the local viewer information (column 7, lines 28-38).

5. Referring to claim 7, McKenna discloses a local terminal of claim 6, wherein the events include one or more of programs watched (column 7, lines 28-38), feeder channels viewed, pay-per-view events purchased, interactive advertisements selected, click stream data, and Internet web sites visited.

Referring to claim 8, McKenna discloses a local terminal of claim 7, wherein the prompt is in a form of an on-screen menu (column 7, lines 18-19).

Referring to claim 9, McKenna discloses a system where the participants are spread out over a large geographic area (column 12, lines 55-57).

McKenna does not disclose a local terminal of claim 1, further comprising a global positioning satellite interface, whereby local terminal location information is provided for storage in the memory.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use GPS to find the geographic location of the device. The motivation would have been to add the ability to compare and contrast user's habits that lived in the same areas with a well known method of locating objects such as GPS. (ON)

Referring to claim 10, McKenna discloses a local terminal of claim 1, further comprising an external data source interface, whereby data external to the local terminal is received for storage in the memory (column 11, lines 11-13).

Referring to claim 11, McKenna discloses a local terminal of claim 1, wherein the switching engine comprises a feeder channel selector, and wherein a feeder channel is selected to display a targeted advertisement based on a group assignment of the local terminal (column 11, lines 21-26).

Referring to claim 13, McKenna discloses a local terminal of claim 1, wherein the switching engine comprises a switching plan, whereby targeted advertisements are displayed (column 11, lines 11-13).

Referring to claim 14, McKenna discloses a local terminal of claim 13, whereby the switching plan designates one of a program channel and a feeder channel, and wherein the program channel and the feeder channel each carry alternative targeted advertisements (column 11, lines 21-26).

6. Referring to claim 16, McKenna discloses a local terminal of claim 13, wherein the switching plan is generated from a source external to the local terminal, the switching plan based on targeted advertisement categories and group assignment rules (column 11, lines 11-13 and 21-26).

Referring to claim 19, McKenna discloses a local terminal of claim 1, wherein the local terminal is a set top terminal in a television program delivery system (figure 2).

Referring to claim 26, McKenna discloses a system where the participants are spread out over a large geographic area (column 12, lines 55-57).

McKenna does not disclose a method of claim 22, wherein the step of inputting the local viewer information comprises receiving local terminal location information from a global positioning satellite.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use GPS to find the geographic location of the device. The motivation would have been to add the ability to compare and contrast user's habits that lived in the same areas with a well known method of locating objects such as GPS. (ON)

Referring to claim 36, McKenna discloses a system where the group assignment rules are provided over the cable line (column 11, lines 11-13).

McKenna does not disclose a method of claim 20, wherein the group assignment rules are provided using the Internet.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the Internet to download the rules. The motivation would have been that the Internet is commonly provided over cable lines, and sending this information would be the same as sending any other information over the Internet. (ON)

Referring to claim 48, McKenna discloses a system where the participants are spread out over a large geographic area (column 12, lines 55-57).

McKenna does not disclose a local terminal of claim 40, further comprising means for determining a geographical position of the local terminal, whereby local terminal position information is provided for storage in the storing means.

At the time of the invention it would have been obvious for one of ordinary skill in the art to store the geographic location of the device. The motivation would have been

to add the ability to compare and contrast user's habits that lived in the same areas.

(ON)

7. Referring to claim 52, McKenna discloses a local terminal of claim 1, wherein the switching means comprises a switching plan, whereby targeted advertisements are displayed (column 10, lines 47-52).

Referring to claim 53, McKenna discloses a local terminal of claim 52, whereby the switching plan designates one of a program channel and a feeder channel, and wherein the program channel and the feeder channel each carry alternative targeted advertisements (column 10, lines 47-52).

Referring to claim 55, McKenna discloses a local terminal of claim 53, wherein the switching plan is generated from a source external to the local terminal, the switching plan based on targeted advertisement categories and group assignment rules (column 11, lines 11-13).

Referring to claim 56, McKenna discloses a local terminal of claim 55, wherein the external source is a television delivery system operations center (column 11, lines 11-13).

Referring to claim 57, McKenna discloses a local terminal of claim 55, wherein the external source is a cable television headend in a cable television program delivery system (column 11, lines 11-13).

Referring to claim 60, McKenna discloses a local terminal of claim 1, wherein the local terminal is a set top terminal in a television program delivery system (figure 2).

8. Claims 12, 15, 32, 51, and 54 rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Baji.

Referring to claim 12, McKenna does not disclose a local terminal of claim 1, wherein the memory comprises a targeted advertisements database comprising one or more stored targeted advertisements, and wherein the switching engine selects one or more of the one or more stored targeted advertisements for display.

Baji discloses a local terminal of claim 1, wherein the memory comprises a targeted advertisements comprising one or more stored targeted advertisements, and wherein the switching engine selects one or more of the one or more stored targeted advertisements for display (column 16, lines 4-7 and 11-13).

Baji discloses storing advertisements in a database at the headend (column 3, lines 42-49)

Baji does not disclose using a database to store advertisements on the STB.

At the time of the invention it would have been obvious for one of ordinary skill in the art to store the advertisements on the STB, as taught by Baji, in the system disclosed by McKenna. The motivation would have been to download the commercials ahead of time when there is available bandwidth.

At the time of the invention it would have been obvious for one of ordinary skill in the art to store the commercials in a database on the STB. The motivation would be that a large amount of commercials could be: stored, organized, and located through searching; which are all benefits of using databases to store files. (ON)

Claim 51 is rejected on the same grounds as claim 12.

Referring to claim 15, McKenna does not disclose a local terminal of claim 13, wherein targeted advertisements are stored in the memory, whereby the switching plan designates a stored targeted advertisement for display.

Baji discloses a local terminal of claim 13, wherein targeted advertisements are stored in the memory, whereby the switching plan designates a stored targeted advertisement for display (column 16, lines 4-7 and 11-13).

At the time of the invention it would have been obvious for one of ordinary skill in the art to store the advertisements on the STB, as taught by Baji, in the system disclosed by McKenna. The motivation would have been to download the commercials ahead of time when there is available bandwidth.

Referring to claim 32, McKenna discloses storing a switching plan at the local terminal; and at the local terminal, selecting one of the one or more stored targeted advertisements for display in one of the one or more targeted advertisement spots (column 10, lines 47-52), the selection based on the group assignment rules and the switching plan (column 11, lines 11-13).

McKenna does not disclose a method of claim 20, further comprising: storing one or more targeted advertisements in a memory at a local terminal; receiving a program at the local terminal, the program comprising one or more targeted advertisement spots.

Baji discloses a method of claim 20, further comprising: storing one or more targeted advertisements in a memory at a local terminal; receiving a program at the local terminal, the program comprising one or more targeted advertisement spots (column 16, lines 4-7 and 11-13).

At the time of the invention it would have been obvious for one of ordinary skill in the art to store the advertisements on the STB, as taught by Baji, in the system disclosed by McKenna. The motivation would have been to download the commercials ahead of time when there is available bandwidth.

Referring to claim 54, McKenna does not disclose a local terminal of claim 52, wherein targeted advertisements are stored in the storing means, whereby the switching plan designates a stored targeted advertisement for display.

Baji discloses a local terminal of claim 52, wherein targeted advertisements are stored in the storing means, whereby the switching plan designates a stored targeted advertisement for display (column 16, lines 4-7 and 11-13).

At the time of the invention it would have been obvious for one of ordinary skill in the art to store the advertisements on the STB, as taught by Baji, in the system disclosed by McKenna. The motivation would have been to download the commercials ahead of time when there is available bandwidth.

9. Claims 17, 30, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Kauffman.

Referring to claim 17, McKenna does not disclose a local terminal of claim 1, wherein the group assignment rules processor engine comprises a review module, whereby current group assignment rules stored at the local terminal are available for display to a user of the local terminal.

Kauffman discloses a local terminal of claim 1, wherein the group assignment rules processor engine comprises a review module, whereby current group assignment rules stored at the local terminal are available for display to a user of the local terminal (column 7, lines 47-53).

At the time of the invention it would have been obvious for one of ordinary skill in the art to view the group assignment rules, as taught by Kauffman, in the system disclosed by McKenna. The motivation would have been to allow the user to change their group affiliation as taught by Kauffman (column 7, lines 3-5).

Claim 58 is rejected on the same grounds as claim 17.

Referring to claim 30, McKenna does not disclose a method of claim 22, further comprising modifying the local viewer information in the memory based on the group assignment rules.

Kauffman discloses a method of claim 22, further comprising modifying the local viewer information in the memory based on the group assignment rules (column 7, lines 47-53).

At the time of the invention it would have been obvious for one of ordinary skill in the art to view and change the group assignment rules, as taught by Kauffman, in the system disclosed by McKenna. The motivation would have been to allow for a guest in a home to change the preferences while they stayed there (McKenna: column 23, lines 5-14).

10. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Vogel.

Referring to claim 33, McKenna does not disclose a method of claim 20, further comprising: displaying the group assignment rules to a viewer at a local terminal; and receiving an override command from the viewer, the override command changing one or more group assignment rules stored at the local terminal.

Vogel discloses a method of claim 20, further comprising: displaying the group assignment rules to a viewer at a local terminal; and receiving an override command from the viewer, the override command changing one or more group assignment rules stored at the local terminal (column 5, lines 38-43).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the override feature, as taught by Vogel, to the system disclosed by McKenna. The motivation would have been to allow for guests staying at the house to view the commercials that were meant to be viewed with the particular program (McKenna: column 23, lines 5-14).

11. Claims 18 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Kauffman as applied to claims 17 and 58 above, and further in view of Vogel.

Referring to claim 18, McKenna does not disclose a local terminal of claim 17, wherein the group assignment rules processor further comprises an override module, whereby the user may override one or more of the current group assignment rules.

Vogel discloses a local terminal of claim 17, wherein the group assignment rules processor further comprises an override module, whereby the user may override one or more of the current group assignment rules (column 5, lines 38-43).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the override feature, as taught by Vogel, to the system disclosed by McKenna. The motivation would have been to allow for guests staying at the house to view the commercials that were meant to be viewed with the particular program (McKenna: column 23, lines 5-14).

Claim 59 is rejected on the same grounds as claim 18.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Number 5,231,494; Selection of Compressed TV Signals from Single Channel Allocation Based on Viewer Characteristics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS

  
CHRIS KELLEY  
SUPPLY PATENT EXAMINER  
SUPPLY CENTER 2000